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No. 84-1398

In the Supreme Court of the United States

OCTOBER TERM, 1984

CASPAR W. WEINBERGER, SECRETARY OF DEFENSE, ET AL., PETITIONERS

v.

TEMISTOCLES RAMIREZ DE ARELLANO, ET AL.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

SUPPLEMENTAL BRIEF AND REPLY BRIEF FOR THE PETITIONERS

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20pp

TABLE OF CONTENTS

Page

A. Supplemental brief 2

B. Reply brief 8

Conclusion 16

Appendix 1a

TABLE OF AUTHORITIES

Cases:

Baker v. *Carr*, 369 U.S. 186 15

Bivens v. *Six Unknown Federal Narcotics Agents*, 403 U.S. 388 16

Jones v. *United States*, 137 U.S. 202 15

Ruckelshaus v. *Monsanto Co.*, No. 83-196 (June 26, 1984) .....

Town of Hallie v. *City of Eau Claire*, No. 82-1832 (Mar. 27, 1985) 13

United States Railroad Retirement Board v. *Fritz*, 449 U.S. 166 13

Vermilya-Brown Co. v. *Connell*, 335 U.S. 377 15

Weinberger v. *Salfi*, 422 U.S. 749 10

Williams v. *Suffolk Insurance Co.*, 38 U.S. (13 Pet.) 415 15

Constitution, statutes and rules:

U.S. Const. Amend. V (Due Process Clause) 13

Foreign Assistance Act of 1961, 22 U.S.C. 2347 9

Page

Constitution, statutes and rules—Continued:

Foreign Assistance and Related Programs Appropriations Act (Continuing Appropriations, 1985 — Comprehensive Crime Control Act of 1984, Pub. L. No. 98-473, § 127), 98 Stat. 1894 ..... 2, 3, 5, 11, 12

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Pursuant to Rules 22.5 and 22.6 of the Rules of this Court, the Solicitor General, on behalf of the petitioners, respectfully files this brief to call the Court's attention to three recent developments since the certiorari petition was filed and to answer several of respondents' contentions in their brief in opposition.

Respondents wholly ignore the extraordinary and unprecedented nature of the intrusion by the court of appeals into the conduct of the Nation's foreign relations and military affairs. Even as this brief is filed, all matters pertaining to the Regional Military Training Center, including respondents' claims, continue to be the subject of sensitive diplomatic discussions between the United States and the Government of Honduras. This reliance on the diplomatic process is in keeping with the intent of Congress in enacting

the provisions of the 1985 Appropriations Act that specifically address the RMTC. Further proceedings in this case by the courts below could undermine those discussions and adversely affect the interests of the United States in this critical area of the world. Moreover, as we have shown in the petition, there is no legal basis for such judicial proceedings, because petitioners' actions in connection with the RMTC are clearly authorized by statute and because this suit in any event is barred by the doctrines of political question and act of state and by compelling prudential considerations that preclude equitable relief.

A. SUPPLEMENTAL BRIEF

Before answering respondents' arguments, we first wish to inform the Court and discuss the significance of three recent developments affecting the RMTC and respondents' claim that have transpired since the certiorari petition was filed.

1. a. The proviso to the paragraph of the Foreign Assistance and Related Programs Appropriations Act for fiscal year 1985 that specifically addresses the status of the RMTC and respondent Ramirez's claim required the President to report to the Appropriations Committees 60 and 120 days after passage of the Act concerning progress in resolving respondent Ramirez's claim. Pub. L. No. 98-473, § 127, 98 Stat. 1894. Those reports were sent on December 11, 1984 and February 13, 1985, and are discussed in the petition. See Pet. 10-12. The Act further required the President, within 180 days, to report to Congress on the resolution of the claim or, "if Honduras has failed to resolve the claim, on the actions which he proposes to take in response to the situation and in particular actions with respect to the granting of preferential trade benefits under the Caribbean Basin Initiative [see Pet. 9 n.5], disbursement of economic support funds or any other funds provided under this resolution and review of the status of Honduras under

other, expropriation-related legislation." 98 Stat. 1894. The latter report was submitted by the Secretary of State, on behalf of the President, by letter dated April 19, 1985 (App., *infra*, 1a-3a).

In his April 19 letter, the Secretary informed Congress that on March 11, 1985, the Attorney General of Honduras, pursuant to directions from the President of Honduras, filed in the Civil Court in Trujillo, Honduras, a request for initiation of proceedings for valuation of property that had been affected by establishment of the RMTC. The Secretary continued (App., *infra*, 1a):

> We understand that the Court has since attempted unsuccessfully to notify Mr. Ramirez formally of the filing. On April 11, 1985, we were advised by Mr. Ramirez' Washington representative that Mr. Ramirez does not intend to participate in this legal proceeding and that he considers he has exhausted his "practical" local remedies.

The Secretary also informed Congress that, in accordance with the Appropriations Act proviso, the Department of State, the Department of the Treasury, and the Office of the United States Trade Representative had reviewed the status of Honduras under the Caribbean Basin Initiative and other legislation, but that "[i]n view of the complexity of the factual and legal issues raised by the case and the recent developments which require further evaluation, these agencies have concluded that it would be premature to take definitive action at this time" (App., *infra*, 2a). As an interim step, however, the Secretary stated that the United States Government had "initiated a thorough investigation into the issues of fact and Honduran law in this case," which then may be used as a basis for determining what steps might be taken at a later date. The Secretary stressed that "[i]t is the longstanding policy of the United States Government that United States citizens must exhaust local remedies before the United States will espouse their

claims" to a foreign government (*ibid.*). In this case, the Secretary explained that the recently initiated investigation would enable the United States to evaluate respondent Ramirez's contention that he had exhausted his "practical" local remedies and that among the options the United States would consider at a later date would be espousal of respondent Ramirez's claim (*ibid.*). The Secretary represented that he would inform Congress within 60 days of the decisions reached by the Executive Branch based on this investigation and any actions it may propose in response to the situation (*id.* at 3a).

b. In her filing in the Civil Court in Honduras on March 11, 1985, the Attorney General of Honduras stated that the RMTC was physically established at its present location on June 6, 1983; that the RMTC was created by decree of the National Congress of Honduras on June 29, 1983; and that the Attorney General was acting pursuant to various Executive Decrees.[1] See Pet. 2-3. However, the Attorney General asserted that the tract of land on which the RMTC is situated is in an area that, under the 1965 and 1982 Constitutions of Honduras, may be acquired or held under title only by native-born Hondurans, by societies totally consisting of Honduran partners, or by government agencies. The Attorney General alleged that the transfer of ownership of the tract to respondent Ganadera de Trujillo, S.A., in 1975 was null and void under these constitutional provisions because that corporation has among its partners a foreign entity, respondent Inversiones Centroamericanas, S.A., a Puerto Rican corporation owned by respondent Ramirez, who is a United States citizen. In these circumstances, the Attorney General contended that the Government of Honduras should pay only for the fair market value of improvements, not the land itself. The Attorney General

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[1]We have lodged with the Clerk of this Court 10 copies of the informal embassy translation of the Attorney General's filing.

proposed the procedures to be followed for this purpose, including appointment of an expert appraiser by each party, with a third appraiser to be appointed by the other two or by the court.

c. The last recent development we wish to bring to the Court's attention is that certain funds previously allocated to the RMTC have been reprogrammed. The proviso to the pertinent paragraph of the Appropriations Act for fiscal year 1985 states that none of the funds it makes available to the President for foreign military assistance shall be used for operation and maintenance of a RMTC until the President provides the Senate and House Appropriations Committees with (i) a report that the Government of Honduras has provided a permanent site for such a Center and made suitable assurances regarding that site; (ii) a detailed plan for construction of a permanent Center; and (iii) a determination that the Government of Honduras recognizes the need to compensate the United States citizen (*i.e.*, respondent Ramirez) who claims injury from the establishment and operation of the existing Center and that it is taking appropriate steps to discharge its obligations under international law. 98 Stat. 1894; see Pet. Add. 3a.

Although these conditions by their terms apply only to funds made available under the Appropriations Act for fiscal year 1985, the Conference Report states that the conferees expected that the same conditions would be applied to funds made available pursuant to the Second Supplemental Appropriations Act for fiscal year 1984 as well. 130 Cong. Rec. H11940 (daily ed. Oct. 10, 1984); see Pet. 16-17. Of the funds made available under the latter Act, $18.5 million had been allocated to the RMTC. By letter dated March 14, 1985, the Director of the Defense Security Assistance Agency and the Under Secretary of State for Security Assistance informed the President of the Senate and the Speaker of the House of Representatives that the

1984 supplemental funds previously earmarked for the RMTC would be reprogrammed as follows: $10 million for El Salvador, $5 million for Honduras, $2 million for Costa Rica, and $1.5 million to be reserved for the cost of the possible closing of the RMTC. The letter (at 1) informed Congress that "[n]egotiations with the government of Honduras have yet to resolve the outstanding issues, and reprogramming these funds will thus permit the continued training of regional forces which otherwise would have taken place at the RMTC." [2]

2. In a number of respects, the recent developments we have described strongly reinforce our submission that the courts below should not be permitted to proceed with this suit:

a. The Secretary of State's April 19 letter, like his prior letters, demonstrates that the Executive Branch takes seriously its responsibility under the Appropriations Act and the President's inherent authority in the area of foreign affairs to protect respondent Ramirez's interests within the broader framework of the Nation's foreign relations. The investigation the Secretary has initiated will enable the United States to proceed with full knowledge of the nature, strength, and scope of respondents' claim in determining whether to espouse that claim on a Government-to-Government basis and whether to take certain actions pertaining to Honduras under expropriation-related legislation.

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[2]We have lodged with the Clerk of the Court 10 copies of the letter and an accompanying justification for the expenditure of the additional $10 million in military assistance specifically for El Salvador. Funds made available for the RMTC under the Appropriations Act for fiscal year 1985 have not been reprogrammed, and those funds therefore remain available for the RMTC if and when the conditions in the 1985 Appropriations Act have been satisfied. Thus, contrary to the suggestion by respondents (Br. in Opp. 15 & n.10), the United States has not abandoned its proposals for a permanent RMTC, either at its present location or at another site in Honduras.

b. The initiation by the Attorney General of Honduras of valuation proceedings in the Civil Court in Honduras reaffirms her Government's agreement with the President and Congress of the United States that payment of compensation in connection with establishment of the RMTC is the responsibility of Honduras. Yet counsel for respondent Ramirez has informed the Department of State that he does not even intend to participate in the valuation proceedings and that he believes he has exhausted his "practical" local remedies. All else aside, respondents have no right to appeal to the equitable powers of the courts of the United States when a legal remedy, in the form of monetary compensation, may be available in the courts of Honduras. See, *e.g.*, *Ruckelshaus* v. *Monsanto Co.*, No. 83-196 (June 26, 1984), slip op. 27-28. The investigation recently initiated by the Secretary of State will, inter alia, enable the United States to determine whether the proceedings begun by the Attorney General of Honduras comply with standards under international law and expropriation-related legislation of the United States and whether exhaustion of these and other local remedies is appropriate.

The assertion by the Attorney General of Honduras in her March 11 filing that the Honduran corporation owned by respondent Ramirez does not lawfully own the land in question raises yet another factor that would complicate any attempt by the courts below to proceed with this case. This question of Honduran law necessarily is one to be resolved by the Government of Honduras, through its courts or by other appropriate means. Such a disputed question of title to land situated in another country underscores the wisdom of applying to this case the long-established rule that courts generally will not enjoin a trespass on land in another jurisdiction (see Pet. 26), especially where, as here, to do so would interfere with the most sovereign of the functions of an independent nation, that of

exercising control over the land within its borders (Pet. App. 140a-141a (Scalia, J., dissenting)). To the extent the United States Government is to become involved in this issue of land ownership under Honduran law, it must be through the Executive Branch in diplomatic discussions with Honduras, not through the Judicial Branch. The investigation announced by the Secretary in his April 19 letter will enable the United States to formulate a position on this and other questions of Honduran law in preparation for any future action.

c. The reprogramming to other training uses of the supplemental 1984 funds that had been allocated to the RMTC demonstrates the efficacy of the statutory measures Congress enacted to protect respondents' interests. These funds could not be used for the RMTC because of the proviso in the 1985 Appropriations Act, which was adhered to by the Executive Branch with regard to 1984 funds as well. Whatever might have been the situation at the time the court of appeals rendered its decision, now that Congress by statute has granted respondents essentially all of the relief they seek by way of an injunction against petitioners — *i.e.*, a prohibition against their lending of assistance to the RMTC at its present location, unless respondent Ramirez is compensated for legitimate claims — there is no basis for the courts below to consider whether such relief should be granted by the federal judiciary.

B. REPLY BRIEF

Several points in respondents' brief in opposition warrant a response.

1. In an attempt to answer our submission (Pet. 14-18) that petitioners' actions on behalf of the President in connection with the RMTC are fully authorized by statute, respondents maintain that they do not challenge petitioners' authority under the Foreign Assistance Act of 1961 to

provide military assistance or any other form of assistance to foreign governments. Instead respondents insist that they challenge only petitioners' right to "seize, occupy, and destroy the property of a U.S. citizen" (Br. in Opp. 9). Respondents' attempt to accomplish by rhetoric what they cannot accomplish by legal analysis is wholly unavailing.

a. The Foreign Assistance Act explicitly authorizes the President "to furnish * * * military education and training to military and related civilian personnel of foreign countries * * * through * * * attendance at military educational and training facilities in the United States * * * and abroad * * *." 22 U.S.C. 2347. The RMTC plainly is such a "facility" located "abroad," and the President therefore is authorized to furnish military education and training there. The Act contains no exception for facilities that were established on land abroad that previously had been owned by a United States citizen but was acquired by a foreign government for purposes of military training, just as it contains no such exception for facilities in the United States established on land that previously had been owned by a United States citizen.

In this case, it is difficult to see how the Government of Honduras could more definitively have asserted control over and effectively taken possession of the land in question for purposes of the RMTC. Under the act of state doctrine, respondents cannot contest the authority of the Government of Honduras to do so. See pages 13-15, *infra*. Because respondents therefore cannot challenge the establishment of the RMTC facility on the land they claim to own, they have no basis for challenging petitioners' actions in furnishing military education and training at that "facility."

The validity of this undertaking is not undermined by respondents' assertion that the result has been to "seize, occupy, and destroy the property of a U.S. citizen" (Br. in

Opp. 9) — by which respondents apparently mean that their property is no longer useful for ranching and has been devoted instead to military purposes. This practical result presumably is no different from that which obtains in many situations in which the government converts private property to a different, public use. The Constitution does not prohibit the United States Government from taking such action even in the United States; the only requirement is that just compensation be paid. So here, respondents have no grounds, at least under the laws of the United States, to prevent the Government of Honduras from asserting dominion over their property. They have only a claim against Honduras for compensation, and the Attorney General of Honduras has initiated proceedings to determine the amount of that compensation.[3]

b. Respondents have alleged (Br. in Opp. 7, 13), however, that the RMTC is not really an undertaking of Honduras because the United States selected the site for the RMTC and planned, financed, built, and operated it.

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[3]In their brief in opposition, respondents relegate to a footnote the entire subject of their remedies in Honduras. See Br. in Opp. 14 n.9. Citing a single article from a Honduran newspaper, they assert that the Honduran administration of justice is "deficient and corrupt." Obviously, however, the courts of the United States cannot be asked to judge the quality of justice in a foreign nation in this manner. Respondents should be obliged to participate in the Honduran proceedings before attacking them in United States courts, at least absent a determination by the Executive Branch that they have exhausted their effective local remedies in Honduras. Cf. *Weinberger* v. *Salfi*, 422 U.S. 749, 765 (1975).

Respondents also contend that Honduran courts are not appropriate forums to adjudicate their claims against officials of the United States. Respondents miss the point. If Honduras has acquired or taken possession of the property in question — and the proceedings in the Civil Court in Honduras are yet a further indication that it has done so — respondents have no grounds to object to the presence of United States personnel on property over which the Government of Honduras has asserted complete dominion and control.

Respondents' premise is that if these allegations are correct, petitioners' actions are "unlawful" (Br. in Opp. 8), and it is for this reason that respondents have sought in district court to obtain discovery of "the facts surrounding the establishment and operation of the RMTC" (*ibid.*). Respondents' legal premise is mistaken, however, and there accordingly would be no need for further proceedings in this case even if judicial intervention were otherwise appropriate.

Contrary to petitioners' apparent contention, nothing in the Foreign Assistance Act limits the President to furnishing only "technical assistance" (Br. in Opp. 7) or prohibits the President from furnishing personnel and other assistance for the location, planning, financing, construction, and operation of a military training center. Rather, such activities might in some circumstances be a necessary predicate to the furnishing of the training itself. Thus, there would be nothing unlawful under the Foreign Assistance Act if the President established a military training center in a foreign country in circumstances in which the host government did no more than designate or provide a suitable site for the facility. Respondents concede (Pet. 13-14) that the Government of Honduras has participated to this extent.

Moreover, the proviso to the 1985 Appropriations Act makes clear that the President may use foreign military assistance funds in this manner. That proviso states that none of the funds the Act makes available may be obligated or expended "for the construction or operation" of a RMTC unless certain conditions are satisfied. 98 Stat. 1894. Obviously, if those conditions are satisfied, the Appropriations Act contemplates that the funds may lawfully be used for "construction" and "operation" of the Center. The only conditions that must be met by the Government of Honduras (other than to compensate respondent Ramirez for injuries at the existing site) are that it "provide[] a site for

such a Center and assume[] responsibility for any competing claims to rights of use or ownership of such site" and provide written assurances to make the site available to train armed forces of other friendly nations. 98 Stat. 1894.[4] Accordingly, petitioners' actions are entirely lawful even if the facts regarding the United States' involvement are exactly as respondents allege them to be.

c. Respondents seek (Br. in Opp. 9-10) to avoid the dispositive effect of the 1985 Appropriations Act proviso by pointing out that it prohibits the expenditure of funds until certain conditions have been met and that those conditions have not yet been met. However, the proviso expressly refers to the "existing Center," without remotely suggesting that petitioners' past actions with regard to it have been unlawful, and the Conference Report in fact expresses support for the concept of such a Center. 130 Cong. Rec. H11940 (daily ed. Oct. 10, 1984). In addition, the conditions on the expenditure of additional funds for a more permanent RMTC are not substantive restrictions under the Foreign Assistance Act; they are *new* conditions imposed on a prospective basis to resolve various issues concerning the RMTC. Nor, contrary to respondents' contention (Pet. 10), is Congress's approval of the President's actions (subject to these new conditions) undermined by the fact that Congress did not hold hearings on the legislation or make specific findings concerning the role of United States' officials in establishing the RMTC on respondents' premises. There can be no doubt that Congress was fully apprised of the interest in the land asserted by respondent Ramirez and that

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[4]Although the proviso also requires the President to furnish the Appropriations Committees with "a detailed plan * * * for the construction of such a Center at the site provided by the Government of Honduras" (98 Stat. 1894), it does not require that the plan or construction be provided by the Government of Honduras.

the United States had played a substantial role in establishing the RMTC. See Pet. 16-18. In any event, Congress is not required to hold hearings or to make specific findings in order for its legislation to be given full effect. See *Town of Hallie* v. *City of Eau Claire*, No. 82-1832 (Mar. 27, 1985), slip op. 8; *United States Railroad Retirement Board* v. *Fritz*, 449 U.S. 166, 179 (1980).[5]

2. Respondents' objections (Br. in Opp. 12-14) to the application of the act of state doctrine are equally insubstantial.[6] Respondents simply repeat the unsuccessful attempt by the majority below to minimize the effect of the resolution passed by the Congress of Honduras and the decree issued by the President of Honduras, contending that the two are "totally unrelated"; that the first "has nothing to do with expropriation of [respondents'] land"; and that the second "is merely the first step in a process which may or may not lead to expropriation by the Honduran government" (Br. in Opp. 13, quoting Pet. App. 72a).

The resolution adopted by the Congress of Honduras, dated June 23, 1983, states that "the Government of the Republic of Honduras *did establish* a Regional Center for

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[5]For similar reasons, respondents' contention (Br. in Opp. 11-12) that they were entitled under the Due Process Clause to a hearing at which they could attempt to persuade petitioners to modify their plans for the RMTC is wholly without merit. See Pet. 18-19 n.10.

[6]Respondents make only a passing response to our argument (Pet. 19-21) that this suit is barred by the political question doctrine, again attempting to draw a distinction between a challenge to the President's decision to furnish military assistance to Honduras and a challenge to the site at which that assistance is furnished. See Br. in Opp. 12. As we have pointed out (Pet. 19), however, the President's discretionary authority to furnish such assistance in a foreign country necessarily subsumes the discretionary authority to make subsidiary judgments about the manner and location of doing so.

military training, located in the jurisdiction of the Municipality of Trujillo," and it authorizes the admission of military instructors and students from friendly countries to train there (Pet. App. 255a (emphasis added)). This resolution obviously referred to and approved the Center that already had been established on the land claimed by respondents in Trujillo.[7] As a result, any United States personnel at the RMTC on the land claimed by respondents have been present at the express invitation and with the express authorization of the Congress of Honduras. Under the act of state doctrine, respondents cannot contest in United States courts the legality of that invitation and authorization.

The subsequent decree by the President of Honduras that this same land "shall be expropriated" (Pet. App. 259a) in any event made clear that the Government of Honduras intended to expropriate the property in question, and the recent initiation of valuation proceedings by the Attorney General of Honduras confirms that it continues to assert control over the property. In these circumstances, and contrary to respondents' contentions (Br. in Opp. 13), there is no need for respondents to develop any further "factual record" regarding what "act" the foreign sovereign has engaged in. Similarly, given the formal actions of the Government of Honduras asserting control over the land needed for the RMTC and authorizing United States' personnel to participate in activities at the RMTC, there likewise is no need for respondents to develop such a "factual record" regarding the actions of United States' officials. All of the facts necessary for the application of the act of state doctrine — the official decrees, the authenticity of which respondents do not challenge — are before the Court. And

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[7] As is made clear by respondent Ramirez's own account in a declaration submitted to the district court (C.A. App. 23-31), the planning and commencement of construction of the RMTC preceded the passage of the resolution by the Congress of Honduras (C.A. App. 54-57).

where, as here, the Executive and Legislative Branches of the United States Government have taken the position that the Government of Honduras has asserted its sovereign authority over the land in question, it would be all the more inappropriate for a court of the United States to conclude otherwise. *Williams* v. *Suffolk Insurance Co.*, 38 U.S. (13 Pet.) 415, 419-420 (1839); *Jones* v. *United States*, 137 U.S. 202, 212 (1890); *Vermilya-Brown Co.* v. *Connell*, 335 U.S. 377, 380 (1948); *Baker* v. *Carr*, 369 U.S. 186, 212 (1962).

3. Review plainly is warranted in this case, because the judicial proceedings contemplated by the erroneous decision below threaten to interfere with on-going discussions with Honduras regarding the RMTC and other matters. The issue is not merely one of discovery of facts pertaining to establishment of the RMTC, as respondents seem to believe (Br. in Opp. 8-9), although we are firmly of the view that the respective roles of the United States and an allied nation in establishing and operating a training or other military installation in a foreign country are not proper subjects of judicial inquiry. In any event, resolution of this case turns on questions of law that do not require a factual record regarding the relative involvement by the United States and Honduras in establishing the RMTC. This suit is barred, and petitioners' actions are entirely lawful, even if those facts are entirely as respondents allege them to be. The questions presented therefore are ripe for review. Especially in light of the court of appeals' refusal even to entertain the government's rehearing petition addressing the dispositive effect of the 1985 Appropriations Act, this Court should not permit further proceedings in the courts below.

Discovery aside, the mere pendency of further proceedings in the courts below may impair the ability of the United States to speak with one voice in sensitive on-going negotiations with Honduras — by casting wholly unfounded doubt on the legality of the United States' actions regarding the

RMTC, thereby undermining the credibility of the United States' commitment to this and other friendly nations in the region; by impugning the sovereign acts of the Honduran Government, which is an important and independent ally in that region; and by suggesting that Honduras is not responsible for payment of compensation to respondents for legitimate claims. More broadly, by disregarding established principles under the political question and act of state doctrines and compelling considerations that preclude equitable relief, the en banc court of appeals has invited similar suits seeking injunctive relief barring the implementation of other foreign policy and military assistance initiatives by the President and by the Secretary of State and Secretary of Defense acting on his behalf. Because venue would lie in the District of Columbia over any such suit brought against the Secretary of State and Secretary of Defense, see 28 U.S.C. 1391(e), the decision below could have a particularly significant adverse impact.[8]

CONCLUSION

For the foregoing reasons and the additional reasons stated in the petition, it is respectfully submitted that the petition for a writ of certiorari should be granted.

REX E. LEE
Solicitor General

APRIL 1985

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[8]We note as well that respondents represent (Br. in Opp. 15 n.11) that if this case is permitted to proceed in district court, they intend to amend their complaint to assert a claim for damages against petitioners under *Bivens* v. *Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971). In addition to the considerations discussed in the text that most directly affect the interests of the United States, we submit that the Secretary of State, the Secretary of Defense, and the Chief of the Army Corps of Engineers should not be subjected to such a suit when their actions on behalf of the President are so clearly lawful.

APPENDIX

THE SECRETARY OF STATE

WASHINGTON

April 19, 1985

Dear Mr. Chairman:

In accordance with the requirements of the Foreign Assistance and Related Programs Appropriations Act, 1985 (as enacted in P.L. 98-473), I am transmitting on behalf of the President the following report on the status of the case of Mr. Temistocles Ramirez, an American citizen, regarding claims against the Government of Honduras arising from the establishment and operation of the Regional Military Training Center (RMTC) in Honduras. The report supplements those sent to you on December 11, 1984, and February 13, 1985, in accordance with the aforementioned legislation.

In the second of these reports, I informed you that the President of Honduras had directed the Honduran Attorney General to initiate a judicial proceeding to resolve this matter. On March 11, the Honduran Attorney General filed in the Civil Court in Trujillo, Honduras, a request for initiation of valuation proceedings in the Ramirez matter and proposed to the Court the issues to be resolved and the procedures to be followed. We understand that the Court has since attempted unsuccessfully to notify Mr. Ramirez formally of the filing. On April 11, 1985, we were advised by Mr. Ramirez' Washington representative that Mr. Ramirez does not intend to participate in this legal proceeding and that he considers he has exhausted his "practical" local remedies.

The Honorable
Jamie L. Whitten, Chairman,
Committee on Appropriations,
House of Representatives.

The Foreign Assistance Appropriations Act requires that we advise you in this report of actions which the President may propose to take concerning this dispute with respect, *inter alia*, to the granting of preferential trade benefits under the Caribbean Basin Initiative, the disbursement of economic support and other funds, and the status of Honduras under other, expropriation-related legislation. To this end, the Department of State, the Department of the Treasury and the Office of the United States Trade Representative have reviewed the status of Honduras under such legislation. In view of the complexity of the factual and legal issues raised by the case and the recent developments which require further evaluation, these agencies have concluded that it would be premature to take definitive action at this time.

As an interim step we have initiated a thorough investigation into the issues of fact and Honduran law in this case. We intend to use this review as the basis for a United States Government evaluation of the issues involved and to aid in determining the appropriate steps which we would then take. To avoid prejudicing the recently initiated judicial proceedings, the results of our investigation will be treated as a confidential matter.

It is the longstanding policy of the United States Government that United States citizens must exhaust local remedies before the United States will espouse their claims. As noted above, counsel for Mr. Ramirez indicated to us on April 11 that Mr. Ramirez contends he has exhausted his "practical" local remedies. The investigation described above will enable us to evaluate this contention and others relevant to our determination. Among the options we could consider at that time would be the espousal of his claim.

We will inform you within sixty days of decisions we reach based on this investigation and on any actions which we propose to take in response to the situation.

Sincerely yours,

/s/ GEORGE P. SHULTZ

George P. Shultz